THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.23179 OF 2005

Dt.31.10.2005

Between:

AWARE, a Society registered under the
Societies Registration Act, rep. By its
Treasurer and Power of Attorney Holder,
S.R.Raja Rao

… Petitioner

And

Bank of Baroda, rep. By its Chairman,
Mandvi Baroda, Gujarat and 2 others. … Respondents

ORDER:

Heard the learned counsel for the petitioner.

The petitioner herein is a voluntary organization doing several activities for the welfare of the people. It is stated that the petitioner obtained a loan of rupees one crore from the first respondent bank and out of the said amount it has paid nearly about Rs.85,00,000/- and there are dues which are payable more than Rs.50,00,000/- including interest. The petitioner is not disputing the amount due and payable to the first respondent bank. While so, the bank got issued a demand notice under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act') stating that the

liability of the petitioner is 52,88,749/- plus interest from 1.10.2004 and expenses. The particulars of the property offered for equitable mortgage and the names of three guarantors were also furnished. It is further stated that if the petitioner fails to pay the said amount within sixty days from the date of receipt of this notice, the Bank will exercise all or any of its right under Section 13(4) of the Act.

The learned counsel for the petitioner submits that if any demand notice is issued under Section 13(2) of the Act it is open for the borrower to make representation under Section 13(3)(a) of the Act and on filing such representation it is the duty of the Bank to consider and pass appropriate orders and being aggrieved of any orders passed, it is always open for the borrower to file application before the Debts Recovery Tribunal. It is also stated that pursuant to the demand notice dated 13.10.2005 the petitioner filed a representation on the next day itself i.e., on 14.10.2005 before the Deputy Regional Manager, Bank of Baroda Hyderabad, for clearing of the entire amount in easy instalments within ten months and also issued a cheque for the sum of Rs.3,00,000/- which was also encashed, but no orders have been passed.

Without going into the merits and without expressing any opinion on the contentions of the learned counsel for the petitioner, I am of the opinion that it is just and proper for the first respondent to consider and dispose of the said representation. But, having regard to the facts and circumstances of the case, the Deputy Regional Manager, Bank of Baroda, Hyderabad, is directed to forward the representation said to have been filed by the petitioner on 14.10.2005 to the first respondent and the first respondent shall consider and pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH, J.)

31.10.2005

kpr